

REMARKS

1. Status of the Claims

Applicant has added new claim 46 directed to the elected species. No new matter has been added.

2. Restriction Requirement

The Examiner states that the reply filed on May 17, 2002, which was received and entered by the USPTO on July 15, 2002, is not fully responsive because the Applicant failed to make an election of species. Applicant had traversed the previous restriction requirement on the grounds that the Examiner had failed to properly apply the PCT Rules 13.1 and 13.2. More specifically, Applicant had argued that the Examiner failed to properly construe or apply the unity of invention standard applicable under these PCT Rules.

The Examiner had also argued that the "special technical feature" (i.e. the fusion protein) common to the claims of group I (claims 1-6) failed to define a contribution over the prior art. The Examiner also stated that the application contained claims directed to more than one species of generic invention and that the species were deemed to lack unity of invention. Applicant pointed out the error in the Examiner's reasoning in its prior response. Applicant notes that the Examiner in the outstanding Office Action has maintained the species election requirement and has requested that the Applicant elect a single

species form each of the three Groups: A) Cell, B) Internal Structure and C) Protein.

Applicant maintains that the species election requirement is improper and that the Examiner has failed to properly apply the unity of invention guidelines. Applicant respectfully requests that the claims of Groups I (claims 1-6) and II (claims 8-25) be rejoined for the reasons set forth in its response of May 17, 2002. Reconsideration and removal of the restriction requirement is requested. If, however, the Examiner rejects Applicant's arguments and maintains the full scope of the restriction requirement, Applicants hereby elect the claims of Group I. And in order to fully comply with the Restriction Requirement, Applicant hereby elects the following species for search and examination on the merits:

Group A: mammalian cell (see claim 14)

Group B: plasma membrane (see new claim 46)

Group C: kinase (see claim 22 or more specifically claim 23).

Favorable action and early allowance of the claims are requested.

If the Examiner has any questions concerning this application, he is requested to contact Leonard Svensson (Reg. No.: 30,330) the undersigned at (714) 708-8555 in the Southern California area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any

additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope to: Commissioner of Patents and Trademarks, Washington

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September 13, 2002
(Date of Signature)